

### **REMARKS**

This Application has been carefully reviewed in light of the Final Office Action dated December 31, 2008 ("Final Office Action"). At the time of the Final Office Action, Claims 1, 3-11, 13, 15, and 17-24 were pending in the Application. Claims 1, 3-11, 13, 15, and 17-24 were rejected. Claim 3 has been amended without prejudice or disclaimer. Applicant respectfully requests reconsideration and allowance of all pending claims.

#### **Section 112 Rejections**

Claim 3 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection. According to the Examiner, the phrases "that is likely to be difficult for a user to understand" and "more easily understood" are editorial and unclear. Final Office Action, p. 2. Although Applicant respectfully disagrees with the Examiner's contention, in order to advance the prosecution of this Application, Claim 3 has been amended to remove these two phrases. Therefore, Applicant respectfully submits that Claim 3 complies with 35 U.S.C. § 112, second paragraph, and requests that the § 112 rejection of Claim 3 be withdrawn.

#### **Section 103 Rejections**

Claims 1, 4, 13, 15, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,367,670 issued to Ward et al. ("*Ward*") in view of U.S. Patent No. 6,603,396 issued to Lewis et al. ("*Lewis*"), and further in view of U.S. Patent No. 5,745,692 to Lohmann II et al. ("*Lohmann*"). Applicant respectfully traverses these rejections for the reasons discussed below.

In order to establish a *prima facie* case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). Moreover, the teaching or suggestion to make the claimed combination must be found in the prior art and not based on Applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 706.02(j). Applicant respectfully submits that the Examiner has not met this burden.

Claim 1 recites:

A method for generating an audio alert and processing an audio command, comprising:

- detecting an alert condition identifying a problem with a system component, the alert condition being detected in response to an event notification associated with at least one of a plurality of heterogeneous application subsystems, each application subsystem in the plurality of heterogeneous application subsystems performing an associated one or more information technology management operations that are distinct from the one or more information technology management operations performed by other application subsystems in the plurality of heterogeneous application subsystems;

- filtering the alert condition to determine a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition, the object being stored in an object repository;

- constructing an audio notification message based on at least one parameter associated with the alert condition;

- outputting the audio notification message via the notification path;

- receiving an audio command;

- processing the audio command to derive command data;

- constructing a command based on the command data;

and

- storing the command in the object repository.

Applicant submits that the *Ward-Lewis-Lohmann* combination suggested by the Examiner fails to teach, suggest, or disclose each of these limitations. For example, the *Ward-Lewis-Lohmann* combination fails to teach, suggest, or disclose “filtering the alert condition to determine a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition.” The Examiner relies upon *Ward* as disclosing this limitation. *See Final Office Action*, pp. 3-4 (citing *Ward*, col. 5, ll. 21-27). However, the Examiner is incorrect. The cited portion of *Ward* discloses that:

As may be seen in FIG. 2, the path by which data accumulated during the monitoring of system components and parameters indicative of an actual or potential failure may be any one of four paths, depending on the particular type of actual or potential failure being monitored. Each system component being monitored may be referred to as an object having a number of attributes.

*Ward*, col. 5, ll. 21-27. “When the attributes exceed their boundary or threshold values, an alert will be generated.” *Id.* at col. 5, ll. 31-32. “Examples of alert conditions . . . include loss of system power, server subsystem failure, [and] excessive server temperature as well as other configurable events that require outside attention.” *Id.* at col. 7, ll. 19-24. Once it is determined that an alert should be issued, “an alert can be issued in a number of ways.” *Id.* at col. 7, ll. 25-27. In particular, the alert may be delivered “in-band” or “out-of-band.” *Id.* at col. 7, ll. 28-29. More particularly, “out-of band” alerts may be delivered by “sending a protocol message over a switched telephone connection to the system manager facility 34, by dialing a phone number associated with a pager 56 or by dialing a phone number to a phone 58 associated with a person and generating a synthesized voice message upon completing a connection with the phone 58.” *Id.* at col. 7, ll. 50-57. According to the Examiner, the methods of delivering these three “out-of-bound” alerts and the “in-band” alerts are the four paths referenced in col. 5, ll. 21-27 of *Ward*. *See* Final Office Action, p. 20. However, these four paths are not “notification paths” as recited in Claim 1.

The four paths referenced in *Ward* are not “notification paths” because they are not “determined based at least on a property of an object associated with the alert condition” as recited in Claim 1. In fact, the cited portions of *Ward* fail to teach, suggest, or disclose how the four paths are determined, and certainly do not teach, suggest, or disclose that the paths are “determined based at least on a property of an object associated with the alert condition.” For at least this reason, the rejection of Claim 1 is improper.

Additionally, the *Ward-Lewis-Lohmann* combination suggested by the Examiner fails to teach, suggest, or disclose “the alert condition being detected in response to an event notification associated with at least one of a plurality of heterogeneous application subsystems, each application subsystem in the plurality of heterogeneous application subsystems performing an associated one or more information technology management operations that are distinct from the one or more information technology management operations performed by the other application subsystems in the plurality of heterogeneous application subsystems,” as recited in Claim 1. Instead, the Examiner relies upon the various system components monitored by system manager 22 of *Ward*. *See* Final Office Action, pp. 3, 21. These include “server subsystems, asynchronous serial port, the computer system bus 13, and the intelligent disk array controller device 26.” Final Office Action, p. 21. These

system components, however, are not “heterogeneous application subsystems” as recited in Claim 1. Claim 1 explicitly states that each heterogeneous application subsystem must “perform[] an associated one or more information technology management operations that are distinct from the one or more information technology management operations performed by the other application subsystems in the plurality of heterogeneous application subsystems.” The system components in *Ward* cited by the Examiner fail to satisfy this limitation. In fact, the cited components are all part the same server 12 (the EISA server) shown in Figures 1 and 3 of *Ward*. As such, they do not perform distinct information technology management operations. Instead, they perform interrelated operations for the same EISA server. For at least this additional reason, the rejection of Claim 1 is improper. Therefore, Applicant respectfully requests that the rejection of Claim 1 be withdrawn.

Similar to Claim 1, Claims 13 and 15 each recite “a notification path associated with the alert condition, the notification path being determined based at least on a property of an object associated with the alert condition” and “a plurality of heterogeneous application subsystems, each application subsystem in the plurality of heterogeneous application subsystems performing an associated one or more information technology management operations that are distinct from the one or more information technology management operations performed by other application subsystems in the plurality of heterogeneous application subsystems.” Therefore, Applicant submits that Claims 13 and 15 are allowable, for example, for reasons similar to those discussed above with regard to Claim 1.

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward*, *Lewis*, and *Lohmann* in view of U.S. Patent No. 6,037,099 to Sabourin, et al. (“*Sabourin*”). Claims 5 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward*, *Lewis*, and *Lohmann* in view of U.S. Patent No. 4,881,197 to Fischer (“*Fischer*”). Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward*, *Lewis*, *Lohmann*, and *Fischer* in view of “*Official Notice*.” Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward*, *Lewis*, and *Lohmann* in view of U.S. Patent No. 6,421,707 to Miller, et al. (“*Miller*”). Claims 9, 17, and 21-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward*, *Lewis*, and *Lohmann* in view of U.S. Patent No. 6,021,262 to Cote, et al. (“*Cote*”). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward*, *Lewis*, *Lohmann*, and *Cote* in view of U.S. Patent Publication No. 2001/0044840

filed by Carleton (“*Carleton*”). Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward, Lewis, and Lohmann* in view of U.S. Patent No. 6,161,082 to Goldberg, et al. (“*Goldberg*”). Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward, Lewis, Lohmann, and Cote* in view of U.S. Patent Publication No. 2004/0210469 filed by Jones et al. (“*Jones*”). Claim 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward, Lewis, Lohmann, and Cote* in view of U.S. Patent No. 6,185,613 to Lawson, et al. (“*Lawson*”).

Claims 3-11 and Claims 17-19 and 21-24 depend from Claim 1 and 15, respectively. Therefore, Applicant submits that Claims 3-11, 17-19, and 21-24 are allowable, for example, for reasons similar to those discussed above with regard to Claims 1 and 15. As such, Applicant respectfully requests that the rejection of Claims 3-11, 17-19, and 21-24 be withdrawn.

**CONCLUSION**

Applicant has made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact the undersigned Attorney for Applicant at the Examiner's convenience.

Although Applicant believes no fees are due, the Commissioner is hereby authorized to charge any necessary additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.  
Attorneys for Applicant



Matthew A. Hayenga  
Reg. No. 54,156  
Phone: 214-668-3949

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**CORRESPONDENCE ADDRESS**

Customer No.       **05073**